

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL KITCHEN,

Plaintiff,

vs

Case No: 14-12883
Honorable Victoria A. Roberts

DANIEL HEYNS, ET AL,

Defendant.

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**ORDER ACCEPTING REPORT AND RECOMMENDATION
AND UPHOLDING ORDER DENYING MOTION**

Plaintiff Michael Kitchen filed a *pro se* civil rights Complaint and Amended Complaint against numerous Michigan Department of Corrections (“MDOC”) officials at various MDOC facilities. The only claim now remaining is Kitchen’s First Amendment retaliation claim against Defendants Hightower, Stephenson, Gambati, Steece and Finco (collectively “Defendants”).

The court now resolves five pending matters. Four are dispositive motions referred to Magistrate Judge Grand:

1. Defendants’ Motion for Summary Judgment (Doc. #72);
2. Plaintiff’s Motion for Voluntary Dismissal (Doc. #77);
3. Plaintiff’s Renewed Motion to Enforce Injunction to Clarify Records (Doc. #82);
4. Plaintiff’s Partial Motion for Summary Judgment (Doc. #83); and

Magistrate Judge Grand issued a Report and Recommendation on each of these motions, which were fully briefed, recommending the Court GRANT:

1. Defendant's Motion for Summary Judgment; and
2. Plaintiff's Motion for Voluntary Dismissal.

He further recommends the Court DENY AS MOOT:

1. Plaintiff's Renewed Motion to Enforce Injunction or to Clarify Record; and
2. Plaintiff's Motion for Partial Summary Judgment.

Plaintiff filed objections (Doc. #88); Defendants did not respond.

The Court reviews *de novo* objections to any part of a magistrate judge's report and recommendation. Fed. R. Civ. P. 72(b). After considering the entire record, the Court ACCEPTS the Report and Recommendation. Defendant's Motion for Summary Judgment and Plaintiff's Motion for Voluntary Dismissal are **GRANTED**; Plaintiff's Renewed Motion to Enforce Injunction or to Clarify Record and Plaintiff's Motion for Partial Summary Judgment are **DENIED**.

The fifth matter before the Court is Plaintiff's Motion to Compel Discovery (Doc. #78). Plaintiff filed objections to Magistrate Judge's Order Denying the motion. (Doc. #88)

The Court reviews a magistrate judge's non-dispositive order with a deferential lens; a district judge may modify or set aside an order if it is "clearly erroneous or contrary to law." Fed. R. Civ. P 72(a); 28 U.S.C. §636(b)(1)(A). After reviewing the motion, the order and Plaintiff's objections, the Court **UPHOLDS** Magistrate Judge Grand's Order Denying Plaintiff's Motion to Compel Discovery.

Judgment will enter in favor of Defendants Hightower, Stephenson, Gambati, Steece and Finco.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 10, 2016

The undersigned certifies that a copy of this document was served on the attorneys of record and Michael Kitchen by electronic means or U.S. Mail on February 10, 2016.

s/Linda Vertriest
Deputy Clerk